
PDC Interpretation

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[Title 390 WAC](#)

APPROVED BY: The Commission

SEE ALSO: [PDC Interpretation 00-02](#) (Guidelines for Contributions Made Over the Internet, Via 1-900 Telephone Numbers, and Using Other Technologies Such As Text Messages)

Online Campaign Activities

The Public Disclosure Commission implements and enforces the campaign finance reporting requirements in Chapter [42.17A RCW](#) and [Title 390 WAC](#). During the fall of 2007, the Commission reviewed the approach of the Federal Election Commission (FEC) concerning online campaign activities (on the Internet). The Commission also reviewed current PDC statutes and rules, and gathered information from participants in the state and federal political campaign process about Internet campaign activities. In 2012, former RCW 42.17 was recodified to [RCW 42.17A](#). In 2012-2013, the Commission studied new developments in online campaign activity, including the significant increase in online political advertising by campaigns. In 2013, the Commission determined it would update its rules and this guidance to reflect some of these changes.

The Commission's intent in providing this Interpretation is based on state voters' strong interest in public disclosure of campaign financing which allows the public to "follow the money." However, the Commission also recognizes the evolving nature of the Internet, and that it often offers no-cost or low-cost opportunities for candidates, voters, bloggers and others to participate in the political process and increasingly, is being used to distribute political advertising. The focus of the agency has been to first apply current state laws and rules to Internet activity where possible, before promulgating new rules or amending current rules. The Commission has updated its rules where necessary to reflect changing technologies and use of those technologies by campaigns.

As a result, to provide guidance to state political campaign participants at this time and while technology, Internet use, and the laws continue to evolve, the Commission is providing this Interpretation of its laws and rules as they exist on June 24, 2013, and as they may impact online political campaign activities, and impact Internet users. Those approaches are explained in this Interpretation.

Readers are also encouraged to check the PDC's website at www.pdc.wa.gov for any legislative changes or other developments in the law or rules. This Interpretation may also be subject to revision as the laws or rules are amended, or Internet usage develops and changes. Nothing in this interpretation should be construed as permitting other than full compliance with [RCW 42.17A](#) and [Title 390 WAC](#).

If you have any questions after reading this, please contact the PDC toll-free at 1-877-601-2828. You may also e-mail the PDC at pdc@pdc.wa.gov.

General Approach and Guiding Principles

- The primary objective is to provide disclosure of campaign financing, while not affecting the free flow of political information provided online when the information is provided by individuals using their own modest resources.
- The Internet is an evolving mode of mass communication and political speech that in the past was considered distinct from other media and warranted a restrained regulatory approach. Some had described the Internet as supplanting the town square or common as the primary place of citizen-to-citizen public discourse. More recently, however, the Internet has become a common and frequent source of political advertising, generating interest by voters, and generating monetary and in-kind contributions to or expenditures for online political advertising. Voters today increasingly look to or receive online political advertising, in addition to traditional forms of media.
- [RCW 42.17A](#) is to be liberally construed to promote the complete disclosure of all information respecting the financing of political campaigns to and assure the public interest is protected. [RCW 42.17A.001](#). In addition, small contributions by individual contributors are to be encouraged and not requiring the reporting of small contributions may tend to encourage such contributions. [RCW 42.17A.001](#). Similarly, small expenditures for political advertising made by individuals using their own modest resources warrant a restrained regulatory approach.
- Where possible, state regulation of online activity will follow the Federal Election Commission approach. The concepts of disclosure and limitation of election campaign financing established by the Federal Election Campaign Act (FECA) will be implemented to the extent feasible at the state level, within the parameters of state laws and rules. See [RCW 42.17A.001](#).
- The FEC, like many other jurisdictions, considers new technologies used by campaigns and candidates and the new questions they present, as those developments occur. The Commission continues to take this same approach, and will provide guidance within current laws, adopting new rules where needed, or providing other guidance to assist filers and the public. The Commission recognizes that the laws it enforces, and its rules, may change as technologies continue to develop, and as campaigns use these technologies, and as a consequence its approach may change. The Commission and its staff may provide guidance on a case-by-case basis, or may address the questions more

formally when common or similar questions are raised. This interpretation provides guidance on common questions raised to date.

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Answers to Questions about Online Campaign Activities in Washington



POLITICAL ADVERTISING

1. **What online political advertising requires disclosure to the public (in a report filed with the PDC of what is paid and to whom) and a disclaimer (“paid for by”)?**

Answer: By way of background, “political advertising” includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign. [RCW 42.17A.005](#). [WAC 390-05-290](#) defines other political advertising terms, including “mass communication” and “online.”

Under state law, most “written political advertising” is to include the “sponsor’s name and address.” Under state law, “sponsor” means the person paying for the political advertising or independent expenditure. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor. [RCW 42.17A.005](#). With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee, or person who solicits or arranges for the advertising to be displayed. [WAC 390-18-010\(2\)](#). Other disclosure requirements apply to certain ads, such information identifying a candidate’s party preference, or information describing the “Top 5 contributors.” [RCW 42.17A.320](#). [WAC 390-18-015](#) describes that disclaimer and disclosure requirements apply to online ads, unless exempted by statute or rule. There are some exemptions (exceptions) to disclaimer requirements for small or unusually-shaped ads. [RCW 42.17A.320](#); [WAC 390-18-030](#), and see further discussion below. The exemptions and partial exemptions from disclaimers for small or unusually shaped ads, including online ads that have space or character limits, are described in [RCW 42.17A.320](#) and [WAC 390-18-030](#).

Political committees must report expenditures for political advertising, including online political advertising. [RCW 42.17A.240](#). Sponsors of many independent expenditures for online political advertising must also file reports with the Commission. [RCW 42.17A.255](#); [RCW 42.17A.260](#).

- **Media Exemption and Disclaimers.** Under statute, there is a “media exemption” from what is considered a campaign contribution (thus reporting and disclosure requirements do not apply). See answers to Questions # 7 and # 8. Under current rule, “political advertising” does not include “letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the space or time is not normally required.” [WAC 390-05-290](#). This rule applies to online publications as well.

- **Exemption for Small Online Ads with Limited Space or Limited Characters.** Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. When small online advertising has restricted space or characters (such as with Google, Twitter or Facebook ads), the disclaimer requirements can be met through an automatic communication providing or directing the viewer to the disclaimers. For example, the ad can contain the required disclaimers in an automatic “pop up”, “hover-over”, “mouse-over”, “rollover”, or in text box that otherwise automatically appears with the ad, or in a link within the ad that, when clicked once, takes the viewer to a landing page or website that contains the disclaimers. See [WAC 390-18-030](#) for more information.
- **Electioneering Communications Exemption.** By definition, “electioneering communications”, which are a particular type of political advertising, do not include online ads. [RCW 42.17A.005](#); [WAC 390-05-505](#).
- **Sample Ballots and Slate Cards Exemption.** There is also a partial exception for sample ballots and slate cards: while they are political advertising, they may be distributed via websites, electronic bulletin boards and e-mails (but not other types of media), and they do not count against a contribution limit. See [WAC 390-17-030](#) for details on sample ballots and slate cards, including disclaimer requirements.

For more information, see the brochures on political advertising, electioneering communications, and independent expenditures on the PDC’s website at [www.pdc.wa.gov](#). Click on “Filer Resources” then “Advertising Sponsors” or “Manuals/Brochures.”



WEBSITES

2. What other online campaign activity, such as creating and maintaining websites or “blogging,” are subject to reporting or disclaimer (“paid for by”) or other requirements?

Answer:

- **Disclaimers (“Paid for By”) on Websites and Other Online Forums of a Political Committee.** See Question # 1. And, political committee websites and other online forums created by a political committee must include the sponsor’s name and address. [WAC 390-18-015](#). The same is true for other online political advertising, unless the sponsor is an unpaid individual acting independently of a campaign and spending less than \$50 to disseminate the online political advertising on his/her personal online site, and when other criteria are satisfied. See more details at [WAC 390-18-015](#); [WAC 390-18-030\(4\)](#).

- **Other Disclosure Requirements.** All online political advertising must include a candidate's party preference. Additional disclosure requirements apply to political committee advertisements (for example, "Top 5" contributor information must be disclosed for advertisements with an aggregate value of \$1,000 or more) and to independent expenditure advertisements (for advertisements with an aggregate value of \$900 or more). See more details at Question #1; [RCW 42.17A.320](#); [WAC 390-18-015](#); [WAC 390-18-010](#).
- **Contributions and Expenditures for Websites and Other Online Activity.** Contributions and expenditures related to creating and maintaining candidate and political committee websites, like other campaign expenditures and contributions, are generally reportable, unless exempted by statute or rule. [RCW 42.17A](#); [Title 390 WAC](#).
- **Volunteer Services to a Campaign – Website Design and Maintenance.** In general, certain campaign activities are considered "volunteer services" and are not considered a contribution or expenditure, so long as the volunteer does not incur incidental expenses exceeding \$50. [RCW 42.17A.005](#), [WAC 390-17-405](#). Unpaid services such as creating, designing, posting to and maintaining a candidate's or political committee's official campaign website or online forum can also qualify as a volunteer service under certain circumstances. [WAC 390-17-405\(1\)\(l\)](#).
- **Volunteer Services to a Campaign – Internet Advertising.** A volunteer's donated Internet advertising production costs at \$50 or less, such as costs for producing a YouTube video, are not a contribution or expenditure under [RCW 42.17A.005](#), so long as the individual does not ordinarily charge a fee or receive compensation for providing the service. [WAC 390-17-405\(1\)\(k\)](#).
- **Internal Political Communications to Members.** Websites or other online forums that are available only to an organization's members are not required to separately include the disclaimers and other disclosures in [RCW 42.17A.320](#) if the sponsor's name is otherwise apparent on the face of the communication. [WAC 390-18-030\(5\)](#).
- **Website Hosting and Similar Costs, Website Political Advertising, and Reporting Independent Expenditures.** State laws require reporting of certain expenditures in support of or opposition to a candidate or ballot measure that are made independently from a candidate or political committee, once a particular dollar threshold is reached. [RCW 42.17A.255](#) (\$100 reporting threshold for an independent expenditure) and [RCW 42.17A.260](#) (\$1,000 reporting threshold for independent expenditures that are political advertising) provide for disclosure (reporting) of the value of those expenditures once those thresholds are met.¹

¹ [RCW 42.17A.255](#) provides in part that "within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more" the person making the expenditure must file a report with the

Regarding the second statute ([RCW 42.17A.260](#)), if political advertising is placed on a website, and there is payment (an expenditure) for this advertising, state laws and rules require a report to be filed by the sponsor.

- **Blogs.** See next question.



BLOGS

3. What “blogging”² activity by an unpaid individual is subject to reporting and disclaimer (“paid for by”) requirements?

Answer: Very little. In particular, uncompensated blogging by an individual who is not coordinating with a political committee or other entity is not subject to disclosure or disclaimer requirements. [See WAC 390-18-030\(4\)](#) for more details.

- **Payment.** A candidate, campaign or political committee paying a “blogger” to blog on behalf of a candidate or ballot measure would be required to report that campaign expenditure like they would any other campaign expenditure. The blogger is not required to report. A person or entity not associated with a campaign or candidate paying a blogger to blog on behalf of or in opposition to a candidate or campaign would be required to report that expenditure as an “independent expenditure” like that person or entity would report any other qualifying independent expenditure. [RCW 42.17A.255](#). A person otherwise hiring a blogger as a vendor, independent contractor or employee to post information in support of or opposition to a candidate, campaign or ballot measure would be required to report that cost like any other campaign expenditure.
- **Blogs May Also Be Entitled To The “Media Exemption.”** In addition, a blog or blogger may be entitled to the “media exemption” from reporting and disclosure requirements in any event, if the statutory criteria are met in [RCW 42.17A.005](#). See answer to Question # 8.

PDC. [RCW 42.17A.260](#) provides that the sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

² A blog (“web log”) is a website where entries are written in chronological order and commonly displayed in reverse chronological order. Many blogs provide commentary or news on a particular subject such as food, politics, or local news. A blog can combine text, images, and links to other blogs, web pages, and other media related to its topic. The ability for readers to leave comments in an interactive format is an important part of many blogs.

4. What about “tip jars” or other voluntary donations to bloggers?

Answer: A blogger who simply has a “tip jar” and has no direct payment arrangement with a candidate, campaign or political committee to post specific information in support or opposition to a candidate or campaign in exchange for the voluntary “tips” is not subject to any PDC regulatory requirements, nor is the donor.

5. Does the fact that a blogger otherwise sells advertising space place a reporting requirement on the blogger, if some of the space is sold to a candidate, political committee, or campaign?

Answer: No. However, if a blogger provides a candidate or political committee ad space for which the blogger usually charges a fee, but provides it to a candidate or campaign for less than fair market value, that is an “in kind contribution” to the campaign that is reportable by the candidate or political committee. [WAC 390-16-207](#).

6. Can public agency employees create blogs on public agency computers to support or oppose candidates or campaigns?

Answer: No. Statutes prohibit use of public agency facilities (including computers) for political campaign purposes. [RCW 42.17A.555](#) and [RCW 42.52.180](#). Also see [WAC 390-05-273](#), and [PDC Interpretations 04-02, 01-03](#).



MEDIA EXEMPTION

7. Does the statutory “media exemption” from what is considered a contribution extend to online media activities, including news media that exist only online?

Answer: Yes, if the statutory criteria in [RCW 42.17A.005](#) are satisfied. The statute exempts from what is considered a contribution those communications that meet all the following criteria:

- a news item, feature, commentary, or editorial
- in a regularly scheduled news medium of primary interest to the general public
- that is in a news medium controlled by a person whose business is that news medium
- and that is not controlled by a candidate or political committee.

Also see [WAC 390-05-290](#) (political advertising exemption), [WAC 390-16-313](#) (independent expenditures exemption), and [WAC 390-16-206](#) (ratings and endorsements by news media).

8. Does this media exemption apply to blogs and bloggers, too?

Answer: Yes, if the statutory criteria in [RCW 42.17A.005](#) are satisfied. In addition, under current rule, political advertising does not include “letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the space or time is not normally required.” [WAC 390-05-290](#). Also see [WAC 390-16-313](#) (independent expenditures exemption) and [WAC 390-16-206](#) (ratings and endorsements by news media).



E-MAILS

9. What about mass distribution of e-mails that urge persons to vote for or against a candidate or ballot measure, or otherwise constitute political advertising? Are there reporting or disclaimer (“paid for by”) requirements?

Answer: The cost to a candidate or committee that is associated with purchasing an e-mail address list would be a reportable expenditure, just like any other expenditure.

In addition, as described in Question # 1, political advertising includes a “**mass communication**” used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign. [RCW 42.17A.005](#). “Mass communication” includes 100 or more e-mails that are identical or substantially similar in nature, directed to specific recipients, and sent within a 30-day period. [WAC 390-05-290\(1\)\(f\)](#). E-mails that are a “mass communication” must include the disclaimers required under [RCW 42.17A.320](#), unless exempted by statute or rule. For example, there are exemptions for individuals acting independently of a campaign and using their own modest resources, and for political advertising sent only to an organization’s members. See the criteria in [WAC 390-18-030\(4\)](#).

These e-mail provisions do not apply where other statutes prohibit use of public agency facilities (including computers and e-mail systems) for campaign purposes, such as [RCW 42.17A.555](#) or [RCW 42.52.180](#). Also see [WAC 390-05-273](#), and [PDC Interpretations 04-02, 01-03](#).



PUBLIC ANNOUNCEMENT OF CANDIDACY

10. What happens when a candidate announces online that he/she is running for office? For example, they post a notice on their Facebook page or upload a video to YouTube, explaining they are running for office.

Answer: They must file a Candidate Registration Form (C-1) and Personal Financial Affairs Statement (F-1) with the PDC within two weeks.

This is because by law, a person becomes a candidate when they do one of these things: raise or spend money for their campaign; reserve space or purchase advertising to promote their candidacy; **announce publicly that they are seeking office**; file a declaration of candidacy; or, authorize someone to do any of these activities. [RCW 42.17A.005](#). Once he or she becomes a candidate, that person must file the F-1 and C-1 forms. “Announce publicly” includes announcements made online such as through a website, Facebook, YouTube, Twitter, or through other similar means.



CONTRIBUTIONS MADE VIA THE INTERNET OR OTHER TECHNOLOGIES

11. **Has the Commission provided guidance to campaigns seeking contributions over the Internet, or through other means?**

Answer: Yes. See [PDC Interpretation 00-02](#) (*Guidelines for Contributions Made Over the Internet, Via 1-900 Numbers and Using Other Technologies Such as Text Messages.*)



OTHER QUESTIONS

12. **Will the Commission examine and possibly revise this Interpretation in the future if new or other questions are raised, if laws or rules are amended or new provisions adopted, if technology changes, or if Internet use changes?**

Answer: Yes.